

# PATENT COOPERATION TREATY

Rec'd PCT TO 20 MAY 2005  
10/535/23

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

<b>To:</b>  <b>BAYER CROPSCIENCE S.A.</b> Département Brevets & Licences 14-20 rue Pierre Baizet BP 9163 F-69263 Lyon Cedex 09 FRANCE	<div style="border: 2px solid black; padding: 5px; display: inline-block;"> <b>RECEIVED :</b>   <div style="border: 1px solid black; padding: 2px; display: inline-block;"> <b>14 MARS 2005</b> </div> </div> Patent & Licensing Dept. BAYER CROPSCIENCE S.A.	<b>PCT</b>  <b>NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT</b> (PCT Rule 71.1)
		Date of mailing (day/month/year) <b>07.03.2005</b>
Applicant's or agent's file reference <b>BCS 02-4006</b>		<b>IMPORTANT NOTIFICATION</b>
International application No. <b>PCT/EP 03/14892</b>	International filing date (day/month/year) <b>18.11.2003</b>	Priority date (day/month/year) <b>20.11.2002</b>
Applicant <b>BAYER CROPSCIENCE S.A. et al</b>		

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:



European Patent Office - P.B. 5818 Patentlaan 2  
 NL-2280 HV Rijswijk - Pays Bas  
 Tel. +31 70 340 - 2040 Tx: 31 651 epo nl  
 Fax: +31 70 340 - 3016

Authorized Officer

Janzing, M

Tel. +31 70 340-4140



# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>BCS 02-4006</b>	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. <b>PCT/EP 03/14892</b>	International filing date (day/month/year) <b>18.11.2003</b>	Priority date (day/month/year) <b>20.11.2002</b>
International Patent Classification (IPC) or both national classification and IPC <b>C07D213/61</b>		
Applicant <b>BAYER CROPSCIENCE S.A. et al</b>		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of    sheets.

3. This report contains indications relating to the following items:

- I    ☒ Basis of the opinion
- II   ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV   ☐ Lack of unity of invention
- V    ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI   ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand  <b>11.06.2004</b>	Date of completion of this report  <b>07.03.2005</b>
Name and mailing address of the international preliminary examining authority:  <div style="display: flex; align-items: center;"> <div>             European Patent Office - P.B. 5818 Patentlaan 2              NL-2280 HV Rijswijk - Pays Bas              Tel. +31 70 340 - 2040 Tx: 31 651 epo nl              Fax: +31 70 340 - 3016           </div> </div>	Authorized Officer  <b>Bosma, P</b>  Telephone No. +31 70 340-3665



**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**JC20 Rec'd PCT/PTO 20 MAY 2005  
International application No. PCT/EP 03/14892**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-4 as originally filed

**Claims, Numbers**

1-12 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/EP 03/14892**

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: WO 02/16322 A (AVENTIS CROPS SCIENCE SA ; AMIN MEHUL RASIKCHANDRA (GB); RIORDAN PETE) 28 February 2002 (2002-02-28)  
D2: PATENT ABSTRACTS OF JAPAN vol. 1998, no. 09, 31 July 1998 (1998-07-31) & JP 10 101646 A (NIPPON FINE CHEM CO LTD; MITSUBISHI CHEM CORP), 21 April 1998 (1998-04-21)  
D3: EP-A-0 409 716 (RHONE-POULENC CHIMIE) 23 January 1991 (1991-01-23)

1) The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-12 does not involve an inventive step in the sense of Article 33(3) PCT:

D1, which is considered to be the closest prior art document and has been acknowledged in the present application, already discloses a process for the preparation of 2-aminomethylpyridines of the general formula (I) by hydrogenation of a 2-cyanopyridine derivative (II).

Although acetic acid is not used in D1, the use of a strong acid is preferred (see page 4, lines 18-21). The catalyst of D1 comprises a metal selected from palladium, ruthenium, nickel and cobalt. The use of Raney nickel catalysts in related processes is known from D2 and is also mentioned in the present description in association with EP-A-0409716 (D3).

For the skilled man the present process according to claims 1-12 is obvious from the teachings of D1 and D2 (or D3).

Therefore it seems necessary for the assessment of inventive step for the above indicated subject-matter to have evidence for the presence of unexpected effects or properties in relation to those described in the state of the art.

The present 2-aminomethylpyridines are useful as intermediates for the preparation of pesticides.

2) The applicant's attention is drawn to the fact that, as a consequence of Rule 66.8(a) PCT the examiner is not permitted to carry out any amendments under the PCT proce-

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/EP 03/14892

dure, however minor these may be.